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BEFORE THE  
**FEDERAL COMMUNICATIONS COMMISSION**  
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JAN 30 2004

FEDERAL COMMUNICATIONS COMMISSION  
 OFFICE OF THE SECRETARY

In the Matter of )

Amendment of Section 73.202(b) )

Table of Allotments )

FM Broadcast Stations )

(St. Albans and Grand Isle, Vermont )

and Tupper Lake, New York) )

MM Docket No. \_\_\_\_\_

RM - \_\_\_\_\_

To: The Commission

ORIGINAL

**PETITION FOR RULE MAKING**

Champlain Communications Corp ("Petitioner"), the licensee of Station WLFE-FM, St. Albans, Vermont ("Station"), by its attorneys and pursuant to Section 1.420(i) of the Commission's Rules, hereby petitions the Commission for amendment of the Commission's FM Table of Allotments, in Section 73.202(b) of the Commission's Rules, to add Channel 272C3 at Grand Isle, Vermont, delete Channel 272A at St. Albans, Vermont, substitute Channel 271A for Channel 272A at Tupper Lake, New York, modify the license of the Station to specify operation on Channel 272C3 at Grand Isle, Vermont and modify the license of Station WRGR(FM), Tupper Lake, New York to specify operation on Channel 271A at Tupper Lake, New York. In support hereof, Petitioner states as follows.

A. Technical Compliance

As the attached Engineering Report (Exhibit 1 hereto) ("Engineering Report") demonstrates, the proposed changes in the FM Table of Allotments comply with the Commission's technical requirements. To begin with, pursuant to Section 1.420(i) of the Commission's Rules, the Grand Isle Channel 272C3 proposal is mutually exclusive with the

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List A B C D E

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Station's present Channel 272A allotment. Section 73.207 of the Commission's Rules stipulates that the minimum distance between a Class C3 allotment and a co-channel Class A station is 142 kilometers; the distance between the Station's present and proposed allotments is 36 kilometers. *See* 47 C.F.R. § 73.207; *see also* Engineering Statement at 4. Further, under this Petition, the Station will provide 70 dBu coverage to all of Grand Isle. *See* Engineering Report at 2.

With one exception, the proposal comports with the Commission's spacing rules for FM allotments with regard to stations in the United States. *See* 47 C.F.R. § 73.207. The proposed Channel 272C3 allotment site at Grand Isle is short-spaced to the Channel 272A allotment of Station WRGR(FM), Tupper Lake, New York. *See* Engineering Report at 3, Table B. Petitioner proposes the substitution of Channel 271A for Channel 272A at Tupper Lake in order to overcome this short-spacing. An Order to Show Cause to Radio Lake Placid, Inc., the licensee of WRGR, will be necessary. Champlain hereby states that it will reimburse the licensee for its expenses in making the channel change should the Commission grant this proposal.<sup>1</sup> The proposed Channel 271A allotment at Tupper Lake fully complies with the Commission's minimum distance requirements vis-à-vis all other stations in the United States. *See* Engineering Report at 5.

While the Grand Isle Channel 272C3 allotment site is short-spaced to two stations and one allotment in Canada, as demonstrated by the Engineering Report, the proposed Grand Isle

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<sup>1</sup> Prescott House, LLC ("Prescott") has an agreement with Radio Lake Placid, the current licensee of WRGR, to purchase the station. In the event Prescott closes this transaction and becomes the licensee, Prescott has agreed to a change in the location of the reference point for the Tupper Lake allotment to the reference point specified in the Engineering Report, and to a change in the Channel from 272A to 271A. Champlain has agreed to reimburse Prescott for its expenses in making these changes. In the event Prescott becomes the licensee of WRGR before the Commission acts on this Petition, Champlain will submit the written consent of Prescott in a supplement. The Engineering Report's reference to the written consent of Prescott is, at this stage, premature. *See* Engineering Report at 4.

allotment nonetheless complies with the provisions of the “Canada-US FM Agreement.”<sup>2</sup> With respect to the Channel 272A allotment for CINQ-FM, Montreal, Quebec, through the use of a directional antenna, the Grand Isle Channel 272C3 allotment site will not cause any greater interference to or contour overlap with CINQ-FM than that caused by the current WLFE-FM allotment and authorized operation. *See* Engineering Report at 3. With regard to CIGB-FM, Trois-Rivieres, Quebec, the proposed Grand Isle allotment will not cause interference to CIGB-FM, again by means of a directional antenna. *See* Engineering Report at 4. With regard to the Channel 270A allotment at Bedford, Quebec, the Grand Isle allotment will not result in any contour overlap or interference to the Bedford allotment as the international border falls between the two, and the spacing between the reference points is adequate. *See* Engineering Report at 4. Accordingly, the Grand Isle proposal complies with the “Canada-U.S. FM Agreement” as a limited short-spaced allotment vis-à-vis CINQ-FM and CIGB-FM and as an unlimited short-spaced allotment vis-à-vis the Bedford allotment. *See* Engineering Report at 4.

The proposed allotment is a preferential arrangement under the Commission’s FM priorities<sup>3</sup> and, thus, better serves the public interest than the existing allotment. The proposal would provide Grand Isle with its first local transmission service without depriving St. Albans of

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<sup>2</sup> Pursuant to the “Canada-US FM Agreement,” proposals that include allotments in the United States that are short-spaced to Canadian allotments may be considered by the Commission. *See Saranac Lake and Westport, New York*, 15 FCC Rcd 10325, 10328 (MMB 2000) (noting that short-spacing between United States allotment and Canadian allotment acceptable under terms of agreement between United States and Canada); *St. Maries, Idaho and Spokane, Washington*, 14 FCC Rcd 17012, 17016 n.5 (MMB 1999) (same).

<sup>3</sup> The Commission’s FM priorities, as set forth in the *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, 91-92 (1982) (“*FM Assignment Policies*”), include: (1) first aural service; (2) second aural service; (3) first local service; and (4) other public interest matters. The Commission gives co-equal weight to priorities (2) and (3). *Id.*

local transmission service.<sup>4</sup> The proposed facilities upgrade and reallocation would result in a gain of 137,648 persons in an area of 3,233 square kilometers, and a loss to a total of 24,709 persons in an area of 1,208 square kilometers. The instant proposal thus promises a net gain of 112,939 persons in an area of 2,025 square kilometers. Further, the proposal would not result in any new “white” or “gray” areas would result from the proposal. *See* Engineering Report at 6.

#### B. Community of License

Petitioners seeking to change community of license pursuant to Section 1.420(i) of the Commission’s Rules must propose a channel that is mutually exclusive with the existing channel, and the new community must be preferred over the existing community under the Commission’s allotment priorities. *See Amendment of the Commission’s Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recons granted in part*, 5 FCC Rcd 7094 (1990). The proposed reallocation satisfies these threshold requirements.

First, the allotment proposed hereby is mutually exclusive with the present allotment. As the Engineering Report demonstrates, the distance between the proposed and existing allotment sites is 36 kilometers, well short of the 142 kilometer minimum distance separation requirement for co-channel Class C3 and Class A facilities set forth in Section 73.207 of the Commission’s Rules. *See* 47 C.F.R. § 73.207; *see also* Engineering Report at 4. Second, the proposal results in a preferential arrangement under the Commission’s FM priorities. The proposed reallocation provides Grand Isle with its first local transmission service without depriving St. Albans of local

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<sup>4</sup> St. Albans would retain local service from Station WRSA(AM). Further, under the Grand Isle proposal St. Albans would continue to receive a 60 dBu or greater signal from WLFE-FM as well as from six other existing fulltime radio services. *See* Engineering Report at 6

transmission service.<sup>5</sup> As evidenced by the Engineering Report, the proposal would result in a net gain of 112,939 persons in an area of 2,025 square kilometers. *See* Engineering Report at 6.

Grand Isle satisfies the Commission's definition of "community" for allotment purposes. *See Report and Order, In the Matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Elkhorn City and Coal Run, Kentucky)*, 16 FCC Rcd 15268 (M.M.B. 2001); *Report and Order, In the Matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Cobleskill and Saint Johnsville, New York)*, 16 FCC Rcd 6966 (M.M.B. 2001). As evidenced by the data attached hereto as Exhibit 2, Grand Isle is a Census-designated place with a 2000 Census population of 1,955 persons. Grand Isle has a number of local government offices, including the Town of Grand Isle Board of Selectmen, Town of Grand Isle Town Clerk, the Town of Grand Isle Zoning Office, and the Town of Grand Isle Lister's Office. Grand Isle has its own zip code and its own U.S. Post Office. A number of churches, restaurants, grocery stores and other businesses are located in Grand Isle, including establishments incorporating "Grand Isle" in their names, *e.g.*, Grand Isle United Methodist Church, Grand Isle Ferry Dock Restaurant, and the Grand Isle Lake House. Grand Isle is also home to its own state park, a volunteer fire department, elementary school, free library, and historical society. *See* Exhibit 2; *see also* Engineering Report at 1-2, Table A. Given these facts, Grand Isle is clearly entitled to the presumption that it constitutes a "distinct geographical population grouping." *See Crisfield, Maryland; Belle Haven, Cape Charles, Exmore, Nassawadox, and Poquoson, Virginia*, DA 03-2980, released September 29, 2003.

Grand Isle is neither located within the Burlington, Vermont Urbanized Area, nor would the proposed city-grade signal cover more than 50 percent of that Urbanized Area. *See*

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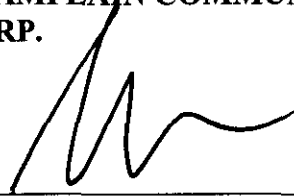
<sup>5</sup> *See supra*, n. 4.

Engineering Report at 1-2. Accordingly, it is not necessary to undertake an analysis of Grand Isle's independence as a community pursuant to *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988).

WHEREFORE, for the foregoing reasons, Champlain Communications Corp. respectfully requests that the Commission grant its Petition for Rule Making, amend Section 73.202(b) to add Channel 272C3 at Grand Isle, Vermont, delete Channel 272A at St. Albans, Vermont, substitute Channel 271A for Channel 272A at Tupper Lake, New York, modify the license of the Station to specify operation on Channel 272C3 at Grand Isle, Vermont and modify the license of Station WRGR(FM), Tupper Lake, New York to specify operation on Channel 271A at Tupper Lake, New York.

Respectfully submitted,

**CHAMPLAIN COMMUNICATIONS  
CORP.**

A handwritten signature in black ink, appearing to read 'Barry A. Friedman', is written over a horizontal line.

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January 30, 2004